

C A N A D A

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

NO: 500-06-000780-169

(Class Action)  
SUPERIOR COURT

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MICHAEL ATTAR

Representative Plaintiff

-vs-

RED BULL CANADA LTD.

and

RED BULL GMBH

Defendants

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**SETTLEMENT AGREEMENT**

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This Settlement Agreement (this “**Settlement Agreement**”) is made by and among: (i) individual and representative plaintiff Michael Attar (“**Plaintiff**”), on behalf of himself and, on the terms set forth herein, the Settlement Class (as defined below) on the one hand; and (ii) RED BULL CANADA LTD., a corporation existing under the laws of Canada (“**RBCA**”) and RED BULL GMBH, a corporation existing under the laws of Austria (together with RBCA, collectively, “**Red Bull**”, and Plaintiff and Red Bull being collectively referred to herein as the “**Parties**”) on the other hand, by and through their respective counsel and representatives, as of the 18th day of July 2019, to settle and compromise the claims of Plaintiff and the Settlement Class on the terms and conditions set forth below:

**I. CLAIMS OF PLAINTIFF**

A. Red Bull manufactures and distributes at the wholesale level, among other things, caffeinated energy drinks (“**CEDs**”) throughout Canada. Plaintiff alleges that from at least 2004 to date,

Red Bull and/or certain affiliated parties of Red Bull that distribute Red Bull CEDs used or published certain labelling, advertising materials, billboards, posters, point of sale materials, online posts, websites and/or social media in relation to the sale, marketing and distribution of Red Bull CEDs that: (i) contained false, incomplete, unsubstantiated, misleading, or erroneous information or representations concerning the characteristics, ingredients, performance, required statements, health benefits and risks of consuming Red Bull branded CEDs; and (ii) failed to inform or disclose, or provided misleading information concerning, the health risks associated with consuming Red Bull CEDs, including without limitation, consumption with alcohol. By so doing, Plaintiff alleges that Red Bull breached obligations imposed on them under the federal *Competition Act*, R.S.C. 1985, c. C-34 as well as under consumer protection and trade practice legislation in Quebec and other Canadian provinces, including:

- a) Quebec's *Consumer Protection Act*, R.S.Q., c. P-40.1;
- b) Alberta's *Fair Trading Act*, R.S.A. 2000, c.F-2;
- c) Saskatchewan's *Consumer Protection and Business Practices Act*, S.S. 2014, c C-30.2;
- d) Manitoba's *Business Practices Act*, C.C.S.M. c.B120;
- e) British Columbia's *Business Practices and Consumer Protection Act*, S.B.C. 2004, c 2;
- f) Ontario's *Consumer Protection Act*, 2002, SO 2002, c 30, Schedule A;
- g) New Brunswick's *Consumer Product Warranty and Liability Act*, S.N.B. 1978, c C-18.1;
- h) Nova Scotia's *Consumer Protection Act* R.S.N.S. 1989, c 92;
- i) Prince Edward Island's *Business Practices Act*, R.S.P.E.I. 1988, c. B-7; and

j) Newfoundland and Labrador's *Consumer Protection and Business Practices Act*, S.N.L. 2009, c C-31.1.

In compensation for the foregoing alleged faults (collectively, the “**Claims**”), Plaintiff requests, on behalf of himself and the Settlement Class, damages under the common and civil law pertaining to breach of contract, duty to inform, warranty, deceit, misrepresentation, negligence and wrongful act and omissions, including: (i) the reimbursement of the purchase price of the CEDs; (ii) damages for trouble and inconvenience; (iii) moral damages; and (iv) punitive damages (collectively, the “**Damages**”). Red Bull completely denies any and all such Claims, and contends that the Damages, and/or any other remuneration to Plaintiff and/or the Settlement Class, are unwarranted. Furthermore, Plaintiff and LPC Avocat Inc. (“**Plaintiff’s Class Counsel**”) affirm and acknowledge that no claims were or are now contained, alleged or advanced in the Action (defined below) or are otherwise made (i) on behalf of minors (defined as natural persons under the age of 18) and (ii) in respect of any adverse health effects whatsoever or any allegations of physical harm relating to the consumption or ingestion of Red Bull CEDs including, without limitation, mixture with alcohol (the “**Excluded Claims**”). The Parties agree and acknowledge that the scope of the release provided to Red Bull in this Agreement has been negotiated and agreed in reliance and on the basis of Plaintiff’s and Plaintiff’s Class Counsel’s foregoing explicit acknowledgement concerning the Excluded Claims.

B. Plaintiff has filed an *Amended Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff*, in which he alleges the Claims and requests the Damages: *Michael Attar v. Red Bull Canada and Red Bull GMBH*, No. 500-06-000780-169 (Qué. Sup. Ct. April 7, 2017) (the “**Action**”). The Action has not yet been authorized to proceed as a class action.

C. Plaintiff, through Plaintiff's Class Counsel, has conducted an investigation of the facts and analyzed the relevant legal issues. Although Plaintiff and Plaintiff's Class Counsel believe that the Claims have merit, Plaintiff and Plaintiff's Class Counsel also have examined the benefits to be obtained under the proposed terms of settlement set forth in this Settlement Agreement (the "**Settlement**"), and have considered the potential risks, costs and delays associated with the continued prosecution of the Action and the likely appeals of any rulings in favor of either Plaintiff or Red Bull.

D. Red Bull has conducted an investigation of the facts and analyzed the relevant legal issues. Although Red Bull denies all liability or wrongdoing with respect to any and all facts or allegations arising out of or related to the Claims, and believes that Red Bull's defenses available at law and/or equity to the claims asserted in the Action have substantial merit, Red Bull also has considered the potential risks, costs and delays associated with the continued litigation of the Action and the likely appeals of any rulings in favor of either Plaintiff or Red Bull against the benefits of the Settlement.

E. Each of the Parties and their respective counsel believes, in consideration of all the circumstances and after substantial arms' length settlement negotiations between counsel, that its respective interests are best served by entering into the Settlement set forth in this Settlement Agreement. Plaintiff and Plaintiff's Class Counsel believe that the Settlement is fair, reasonable, adequate and in the best interests of the Settlement Class.

F. The Parties intend that the proposed Settlement set forth in this Settlement Agreement will resolve all Released Claims (as defined below).

**NOW, THEREFORE, IT IS HEREBY AGREED by and between the Parties, that:**

- (a) the Action will be settled and compromised as between Plaintiff (on behalf of himself and all Settlement Class Members) and Red Bull, subject to approval of the Quebec Superior Court (the “**Court**”) as further described herein;
- (b) upon the Court’s approval of the Settlement, a final judgment or order, in a form to be agreed by the Parties and approved by the Court, will be entered: (1) declaring that the Settlement Agreement constitutes a transaction pursuant to article 2631 of the *Civil Code of Quebec*, thereby effectively terminating the Action; (2) declaring the Action settled out of Court; (3) barring and enjoining the prosecution by the Settlement Class Members of all Released Claims against the Released Parties (as defined below) with prejudice; and (4) ordering the Parties to abide by the Settlement Agreement; and
- (c) all of the foregoing are subject to the following terms and conditions:

## **II. DEFINITIONS**

In addition to the foregoing defined terms, for purposes of this Settlement Agreement and all Annexes hereto, the following terms shall have the meanings given to them below:

A. The term “**certification**” as used in this Settlement Agreement refers to the legal process of certification of a class action as commonly understood in the common law provinces of Canada, and to the legal process of “**authorization**” of a class action as commonly understood in the Province of Québec, *mutatis mutandis* and *vice versa*, and the two expressions are used interchangeably throughout this Settlement Agreement.

B. “**Claims Administrator**” is the entity or person approved by the Court to manage the Settlement Benefits Claims Process, including without limitation receiving from Red Bull the Settlement Benefits, publishing notices to the Settlement Class, paying the Settlement Benefits to Settlement Class Members, and reporting to the Court and the Parties as necessary and appropriate.

C. “**Class Period**” means the period from January 1, 2007 up to and including the date of the Notice Approval Order.

D. “**Class Counsel Fees**” means legal fees and disbursements that Plaintiff’s Class Counsel requests in relation to the Action and that Red Bull has agreed to pay subject to Court approval, inclusive of applicable taxes in accordance with legal principles.

E. “**Effective Date**” is the date on which the Settlement Approval Order is Final.

F. “**Final**”, when used in connection with any court order or judgment, means that the relevant order or judgment will be final:

- (a) if no appeal is taken therefrom, on the date on which the time to appeal therefrom (including any potential extension of time) has expired; or
- (b) if any appeal is taken therefrom (including without limitation any appeals by Objectors), on the date on which all appeals therefrom, including motions for rehearing or reargument and motions or applications for leave to appeal or any other form of review, have been finally disposed of, such that the time to appeal therefrom (including any potential extension of time) has expired or does not exist, in a manner resulting in a final, non-appealable affirmance of the relevant order or judgment.

G. **“Final Settlement Notice”** means a written notice of the Settlement approved by the Court in the Settlement Approval Order, in form and substance substantially similar to that attached hereto as Annex 2 to this Settlement Agreement.

H. **“Notice Approval Order”** means the order or judgment of the Court that approves the Pre-Approval Settlement Notice.

I. **“Notices”** means, collectively, the Pre-Approval Settlement Notice and the Final Settlement Notice.

J. **“Objectors”** means entities or individuals who register formal objections with the Court as part of the process of approving this Settlement Agreement.

K. **“Opt Outs”** means Settlement Class Members who validly opt out of the Settlement Class within the period and under the conditions and procedures for opt-out as determined by the Court and described in any notice to class members approved by the Court.

L. **“Orders”** means, collectively, the Notice Approval Order and the Settlement Approval Order.

M. **“Pre-Approval Settlement Notice”** means a written notice of the proposed Settlement approved by the Court in the Notice Approval Order, in form and substance substantially similar to that attached hereto as Annex 1 to this Settlement Agreement.

N. **“Released Claims”** means any and all claims, rights, damages, losses, demands, obligations, actions, causes of action, suits, cross-claims, matters, issues, debts, liens, contracts, liabilities, agreements, costs, or expenses, of any nature whatsoever, ascertained or unascertained,

suspected or unsuspected, existing or claimed to exist, including any Unknown Claims, of Plaintiff and/or the Settlement Class Members (collectively, “Losses”) arising out of any purchase, consumption or use by them of Red Bull CEDs, to the extent that any Losses: (a) arise out of the Action; (b) relate to any allegations that either were or could have been asserted in the Action or may previously have been asserted in claims relating to Red Bull CEDs; or (c) might in the future be asserted by Plaintiff or any Settlement Class Member, against any of the Released Parties in connection with, arising from, or in any way whatsoever relating to, (in any manner, directly or indirectly) the Claims and/or any acts, facts, transactions, occurrences, conduct, representations or omissions alleged in the Action, including, without limitation, Losses respecting any disclosure or failure thereof, advertising, marketing, labeling, packaging, promotion, sale or distribution, or other descriptions of, or Losses relating the nature, quality, product pricing, value, safety, and/or functionality of Red Bull CEDs and their ingredients, or the risks, disclosed or undisclosed, relating to their consumption or ingestion, including mixture with alcohol, or any other threatened or pending litigation asserting Losses of the nature encompassed by the Release, and any Losses arising after the date that the Settlement Approval Order becomes Final that could be asserted based on labels or marketing materials, consumption or ingestion of Red Bull CEDs in existence as of the Effective Date. For avoidance of doubt, Released Claims include Losses relating to: (i) damages caused by alleged inadequate, misleading, incomplete or otherwise improper labeling, advertising, marketing, distribution or sale of Red Bull CEDs; and (ii) any claim for punitive damages.

O. “**Released Parties**” means each and all of the defendants and each and all of defendants’ direct and indirect parent companies and affiliates including without limitation Red Bull, Red Bull Canada Distribution, Red Bull North America, Inc., Red Bull Distribution Company, Inc., Red Bull Media House North America, Inc., Red Bull Music Academy, Inc., Red Bull New York, Inc., and Red Bull Records, Inc. and each and all of their respective divisions and direct and indirect subsidiaries,



affiliates, partners, joint ventures, predecessors and successor corporations and business entities, and each and all of their past and present officers, directors, servants, licensees, joint ventures, sureties, attorneys, agents, consultants, advisors, contractors, employees, controlling or principal shareholders, general or limited partners or partnerships, divisions, insurers, designated management companies, and each and all of their successors or predecessors in interest, assigns, or legal representatives, and any persons or entities that have designed, developed, manufactured, supplied, advertised, marketed, distributed or sold (in each instance, directly or indirectly) Red Bull CEDs.

P. **“Representative Plaintiff”** means plaintiff Michael Attar in his capacity as a representative for the Settlement Class, if and when appointed to that role by the Court.

Q. **“Settlement Approval Order”** means the order or judgment of the Court that finally approves the Settlement and authorizes the class action for settlement purposes only.

R. **“Settlement Benefits”** means the amounts payable by Red Bull to Settlement Class Members under Section III.D(e) hereof.

S. **“Settlement Benefits Claims Process”** means the process described in Section III.B(a) hereof.

T. **“Settlement Class”** means all legal and natural persons (excluding minors, defined as natural persons under 18 years of age as of the date the Court issues the Notice Approval Order) who were residents of Canada (including without limitation any of its provinces and territories) during the Class Period and who purchased and/or used or consumed one or more Red Bull CEDs in Canada during the Class Period excluding Released Parties.

U. “**Settlement Class Member**” means any person who falls within the definition of the Settlement Class, including without limitation any Objectors who do not validly opt out of the Settlement Class, but excludes persons who validly opt out of the class action.

V. “**Unknown Claims**” means all Losses arising out of facts relating to any matter covered by the Released Claims that all persons or entities providing releases under this Settlement Agreement, including all Settlement Class Members, do not know or suspect to exist in their favour at the time of the release of the Released Parties and which, if known by them, might have affected their decision to settle with Red Bull and release the Released Parties or to take any other action including, but not limited to, objecting or not objecting to the Settlement. All persons or entities providing releases under this Settlement Agreement may hereafter discover facts other than or different from those which such persons now know or believe to be true with respect to the subject matter of the Released Claims. Upon the Effective Date, each person or entity providing releases under this Settlement Agreement, including all Settlement Class Members, shall be deemed to have waived any and all rights that he, she, it or they may have under any action, statute, regulation, administrative adjudication or common or civil law principle that would otherwise limit the effect of the foregoing releases to those claims actually known or suspected to exist at the time of execution of this Settlement Agreement.

### **III. TERMS AND CONDITIONS OF THE SETTLEMENT BENEFITS**

#### **A. Obligations of Red Bull.**

- (a) *Conditional Nature.* All obligations of Red Bull hereunder are conditional and contingent in all respects upon effective termination of the Action and the entry of a declaration of settlement of the Action, the release by the Settlement Class Members of the Released Claims, entry of the judgment approving this

Settlement Agreement as provided for in the Settlement Approval Order, and the occurrence of the Effective Date.

- (b) *The Settlement Fund.* Red Bull shall deliver to the Claims Administrator the total amount not to exceed CAD \$850,000 (which total amount includes all taxes, fees, interest, and costs) (the “**Settlement Fund**”), as and when required under this Settlement Agreement, to be used to: (i) make available to Settlement Class Members the Settlement Benefits, pursuant to the terms and conditions of this Settlement Agreement; (ii) pay all costs related to obtaining the approval of this Settlement Agreement, including but not limited to publication of all notices to the Settlement Class, including the Pre-Approval Settlement Notice and the Final Settlement Notice; (iii) pay all costs of the Claims Administrator or any other person relating to the administration, processing and distribution of Settlement Benefits; (iv) pay all Class Counsel Fees and disbursements applied for and ultimately awarded by the Court; (v) pay a disbursement of up to \$5,000 to Representative Plaintiff, if approved by the Court; (vi) pay any amount determined by the Court to be payable to the Quebec *Fonds d'aide aux actions collectives*; and (vii) if applicable, pay any *cy-près* payment approved by the Court of any amount remaining in the Settlement Fund, in accordance with the procedures set forth below. Under no circumstances whatsoever shall Red Bull have any further financial responsibility to pay any amount in excess of the maximum amount of CAD \$850,000 (which maximum amount includes all taxes, interest, fees and costs) pursuant to this Settlement Agreement or in the execution of any of its provisions.

- (c) *Remittance of Settlement Fund to Claims Administrator.* Red Bull shall make an advance payment to the Claims Administrator from the Settlement Fund of an amount sufficient to cover the publication costs of the Pre-Approval Settlement Notice within thirty (30) days after the later of the date: (i) the Court issues the Notice Approval Order in which the Court approves the Claims Administrator's appointment and directs payment of the amount to the Claims Administrator; and (ii) the Claims Administrator agrees in writing to perform its duties in strict compliance with the terms of this Settlement Agreement. Red Bull shall pay the remainder of the Settlement Fund to the Claims Administrator within ten (10) business days after the Effective Date.
- (d) *Modification of Conduct by Red Bull:* Within the Class Period, Red Bull voluntarily amended and updated its marketing materials and labeling messages directed at Canadian consumers, and has done so in part to address the concerns raised in the Action and in part due to regulatory changes in Canada. Plaintiff and Plaintiff's Class Counsel agree that, for purposes of this Settlement Agreement, such updated materials satisfy any and all claims of whatever kind or nature against Red Bull which Plaintiff or Settlement Class Members asserted, or could have asserted, in the Action.
- (e) *Modifications to Red Bull Canada's website:* Within five (5) days of the Effective Date, Red Bull shall modify and update the French and English versions of its Canadian webpage (on the following URL or such other URL as reasonably determined by Red Bull, so long as the URL is within the "Q&A" section of the webpage: <https://energydrink-ca.redbull.com/en/red-bull-and-alcohol>) to include a

hyperlink to Health Canada's warning concerning the potential health risks associated with consuming CEDs with alcohol for at least one (1) year following the Effective Date.

- (f) *Orders.* Red Bull shall, jointly with Plaintiff and Plaintiff's Class Counsel, file motions for the Orders, as required under Section V hereof.
- (g) *Other.* Red Bull shall otherwise comply with and perform all of the terms, conditions and obligations required of them under this Settlement Agreement.

**B. Obligations of Settlement Class Members.**

- (a) *Settlement Benefits Claims Process.* To claim entitlement to the compensation provided under this Settlement Agreement, a Settlement Class Member must:
  - (1) provide his/her e-mail address to the Claims Administrator in the manner described in the Pre-Approval Notice by the deadlines provided therein;
  - (2) complete an on-line claim form, an agreed draft of which is attached as Annex 3 to this Settlement Agreement ("**Claim Form**"), and
  - (3) submit such completed Claim Form to the Claims Administrator in the manner described in the Claim Form no later than 30 days after the date of publication of the Final Settlement Notice by the Claims Administrator in the manner described herein (the "**Claim Form Due Date**").

If a Settlement Class Member fails to complete (1), (2) or (3) above in this subsection (a), then he/she will not be entitled to any portion of the Settlement Benefits, and will be subject to the Releases set forth in Section VI.

- (b) *Payment of Settlement Benefits.* Settlement Class Members who timely and validly submit Claim Forms shall receive payment of any Settlement Benefits to which they are entitled by means of an electronic payment by Interac e-Transfer or other similar electronic means of payment as judged feasible by the Claims Administrator sent to the e-mail address provided by the Settlement Class Member. Such payments may be retrieved for a period of thirty (30) days after transmittal of the same by the Claims Administrator; provided that if any Settlement Class Member fails to timely retrieve an electronic payment, the payment will be withdrawn, the electronic transfer will be voided, the Settlement Class Member will be deemed to have received their full Settlement Benefits under the Settlement Agreement, and for the avoidance of doubt such Settlement Class Member shall still be subject to the Releases set forth in Section VI. If any Settlement Class Member nevertheless attempts to retrieve an electronic transfer after the aforementioned 30-day time period, that Settlement Class Member shall be responsible for any associated fees, fines, or penalties, imposed by its financial institution, and for the avoidance of doubt such Settlement Class Member shall still be subject to the Releases set forth in Section VI.

**C. Obligations of Plaintiff and the Plaintiff's Class Counsel.**

- (a) *Termination of Action and Declaration of Settlement.* Plaintiff and Plaintiff's Class Counsel, with the reasonable cooperation of Red Bull as and when required, shall use their best efforts to effectuate the Settlement and to secure the prompt, complete and final termination of the Action and declaration of settlement in respect of the Action as against Red Bull.
- (b) *Orders.* Plaintiff and Plaintiff's Class Counsel shall, jointly with Red Bull, file motions with the Court for the Orders, as required under Section V hereof.
- (c) *Publication of Notices.* Plaintiff's Class Counsel may post a link on Plaintiff's Class Counsel's website and firm Facebook page to the Pre-Approval Settlement Notice and Final Settlement Notice published by the Claims Administrator pursuant to Sections III.D(a)(1) and (3) below, with the following statement: "For information on a class action settlement with Red Bull Canada Ltd., please visit: [www.energydrinksettlement.ca]." Plaintiff's Class Counsel may post information regarding the settlement at [www.lpclex.com/energydrinksettlement](http://www.lpclex.com/energydrinksettlement) in the same format as the "Settlements" section of the firm website [www.lpclex.com](http://www.lpclex.com) (which includes a single photographic image and summary of the terms of the settlement). Plaintiff's Class Counsel may publish the photograph contained in Annex 4 (the "Photograph"), without deviation, solely on the website [www.lpclex.com/energydrinksettlement](http://www.lpclex.com/energydrinksettlement) for a period of three (3) years after the date of this Settlement Agreement or until this Settlement Agreement is terminated by its terms, whichever is earlier (the "Publication Term"). Plaintiff's Class Counsel shall be required to remove the Photograph from the firm website and cease all publication of the Photograph after both (a) the Publication Term

has ended and (b) Plaintiff's Class Counsel has received written notice of the same from Red Bull.

- (d) *Non-Disparagement.* Plaintiff's Class Counsel shall not disparage Red Bull or any Red Bull products (including without limitation CEDs) at any time in any format.
- (e) *Other.* Plaintiff and Plaintiff's Class Counsel shall otherwise comply with and perform all of the terms, conditions and obligations required of them, respectively, under this Settlement Agreement.

**D. Obligations of Claims Administrator.**

- (a) *Publication of Pre-Approval Settlement Notice.* The Claims Administrator shall deliver to the Settlement Class the Pre-Approval Settlement Notice, as set forth below:

- (1) The Pre-Approval Settlement Notice, together with a copy of this Settlement Agreement must be published on a separate website (in English and French) not linked to either of the Parties or their legal counsel (including without limitation Plaintiff's Class Counsel) at the following URL [[www.energydrinksettlement.ca](http://www.energydrinksettlement.ca)]. The Pre-Approval Settlement Notice and Settlement Agreement will remain posted on that website until ninety (90) days after the date that Settlement Benefits have been transmitted by the Claims Administrator to Settlement Class Members or until this Settlement Agreement is terminated by its terms, whichever is earlier.



(2) Plaintiff's Class Counsel may continuously post a link to the Pre-Approval Settlement Notice website on their firm website, beginning on the date that the Pre-Approval Settlement Notice is published pursuant to Section D(a)(1) above, and ending on the day that is (90) days after the date that Settlement Benefits have been transmitted by the Claims Administrator to Settlement Class Members or until this Settlement Agreement is terminated by its terms, whichever is earlier. Other than the image contained in Annex 4, Plaintiff's Class Counsel shall not copy or publish any Red Bull IP or images of the CEDs or other products, except as permitted in writing by Red Bull.

(3) The Claims Administrator shall cause a short form version of the Pre-Approval Settlement Notice (in form and substance substantially similar to that attached hereto as Annex 1A) to be published through means of a Facebook campaign targeting consumers residing in Canada, that will include a plain text message and a link to the Pre-Approval Settlement Notice in PDF format. The Facebook campaign shall run for a period of 20 days between the date of the Notice Approval Order and the date of the hearing on the Application for Settlement Approval Order.

(b) *Publication of Final Settlement Notice.* Within fifteen (15) days after the Settlement Approval Order is entered, the Claims Administrator shall (1) post the Final Settlement Notice on the same website upon which the Pre-Approval Settlement Notice was published, and (2) communicate the Final Settlement

Notice by email to Settlement Class Members who have previously provided their email address to the Claims Administrator.

- (c) *No Notice Required Following Change of Settlement Benefits.* The Parties also agree that, if the Settlement Benefits available to Settlement Class Members change in a manner which does not adversely effect the rights of such Settlement Class Members (for example but without limitation, an extension of the time for making claims, a change in the average payment to Settlement Class Members, a change in the amount of fees awarded to Class Counsel, etc.) the Claims Administrator does not need to publish, or otherwise deliver to Settlement Class Members, a new notice, except that the Claims Administrator will update the Settlement Notice website in the event of any material change to the Settlement Benefits.
- (d) *Representative Plaintiff's Disbursements.* If approved by the Court as part of the Settlement Agreement, Red Bull agrees the Representative Plaintiff will be entitled to receive up to CAD \$5,000 from the Settlement Fund in consideration for his disbursements and the time and effort that he has put into the Action and its preparation and investigation, as well as in representing the interests of Settlement Class Members residing in the province of Quebec and in the rest of Canada. The Claims Administrator shall disburse the sum of up to CAD \$5,000 (subject to Court approval) to the Representative Plaintiff from the Settlement Fund within ten (10) business days after the Effective Date or such other date thereafter as mutually agreed upon by the Claims Administrator and Class Counsel.

- (e) *Payment of Settlement Benefits.* Within sixty (60) days after the later of the Effective Date and the Claim Form Due Date, the Claims Administrator shall pay an amount to each valid claimant equal to: (i) the amount remaining in the Settlement Fund after deducting all notice and administration costs, any amount determined by the Court to be payable to the *Quebec Fonds d'aide aux actions collectives*, the Representative Plaintiff's disbursement and Class Counsel Fees applied for and ultimately awarded by the Court; divided by (ii) the number of valid claims; provided that every such payment shall be equal in amount and no Settlement Class Member may receive more than ten dollars (CAD \$10), no matter the number of total claims made nor the number of Claim Forms that such Settlement Class Member submits, it being understood and agreed that each Settlement Class Member shall be limited to one claim. The Claims Administrator shall monitor transmittal and cashing/redeeming of the Settlement Benefits by the applicable Settlement Class Members, and withdraw any payment not timely cashed by any such Settlement Class Members pursuant to Section III.B(b) hereof.
- (f) *Cy-Près Payment of Remainder of Settlement Fund.* If applicable, the Claims Administrator shall pay any remaining amount of the Settlement Fund after all Settlement Benefits and all other amounts described in this Section III are paid to a charitable organization agreed to by the Parties and approved by the Court.
- (g) *Closing Report to the Court.* As part of its mandate, the Claims Administrator shall produce a Closing Report to the Parties to be filed into the Court record as an exhibit to an application by the Parties detailing the acts of its administration

and the results of the settlement, including the numbers of claims, and accounting for all amounts paid from the Settlement Fund, and seeking an Order from the Court closing the case and definitively terminating the Action.

- (h) *Other.* The Claims Administrator shall otherwise comply with and perform all of the terms, conditions and obligations required of it under this Settlement Agreement.

E. ***Red Bull and Plaintiff's Class Counsel not Responsible or Liable for Claims Administration or Acts of Claims Administrator.*** Red Bull and Plaintiff's Class Counsel shall not have any responsibility, liability or financial obligation whatsoever with respect to the investment, distribution or administration of monies in the Settlement Fund. More generally, Red Bull and Plaintiff's Class Counsel shall have no responsibility for and no liability whatsoever with respect to the administration of this Settlement Agreement, or for any mismanagement, negligence or malfeasance committed by the Claims Administrator appointed by the Court or any other Party. The Parties agree that the inclusion of this provision in the Settlement Approval Order issued by the Court is a condition of settlement.

F. **Opt Out List.** Following the deadline established by the Court in the Notice Approval Order for potential Settlement Class Members to opt out of the Settlement Class, the Parties may request from the clerk of the Court a complete list of all Opt Outs that have been received by the Court (the "**Opt Out List**"). If the number of Opt Outs exceeds one hundred (100), then Red Bull may in its sole and absolute discretion withdraw from, and unilaterally terminate, this Settlement Agreement by: (i) filing with the Court a notice of withdrawal (the "**Opt Out Withdrawal Notice**") within forty-five (45) days after Red Bull's receipt of the Opt Out List; and (ii) serving, or causing to be served, on Plaintiff's

Class Counsel the Opt Out Withdrawal Notice. For the avoidance of doubt, Plaintiff and/or Plaintiff's Class Counsel do not have any right or option to withdraw from this Settlement Agreement based on the number of Opt Outs. The Parties agree that the date for the Settlement Approval Order hearing should be subsequent to the expiry of the time for filing by Red Bull of the Opt Out Withdrawal Notice. The Parties shall jointly request the Court to schedule the hearing accordingly.

**G. Nature of Settlement Benefits.** This Agreement is reached on the basis that the Settlement, including without limitation the amount of the Settlement Benefits, does not contemplate or represent a refund of the price of product purchased by Settlement Class Members and does not attract any sales tax (including G.S.T., P.S.T., H.S.T., and similar forms of taxation), or domestic or international duty, duties, levy, or levies.

**H. Conditional Nature of Settlement.**

- (a) *Final Settlement Approval Order.* This Settlement Agreement is conditioned upon the Settlement Approval Order becoming Final. If the Settlement Approval Order is reversed or vacated, then either party may, in its sole and absolute discretion, withdraw from, and unilaterally terminate, this Settlement Agreement, by filing a Withdrawal Notice within thirty (30) business days after the vacating of the Order.
- (b) *Form of Settlement Approval Order.* This Settlement Agreement is conditioned upon the Settlement Approval Order conforming to the terms and conditions contemplated by this Settlement Agreement. If the Settlement Approval Order is modified in any manner that limits the scope of releases given to the Released Parties as provided in this Settlement Agreement, or if any order of the Court,

including without limitation the Orders, imposes any obligation(s) on Red Bull that are materially different from those stated and described herein, then Red Bull may, in its sole and absolute discretion, withdraw from, and unilaterally terminate, this Settlement Agreement, by filing a Withdrawal Notice within thirty (30) business days after the Court's delivery of such order, and serving the same on Plaintiff's Class Counsel.

- (c) *Restoration of Prior Positions Following Settlement Failure.* If this Settlement Agreement is terminated in accordance with its terms, the Parties will be restored to their prior respective positions. The terms and provisions of this Settlement Agreement shall at that time have no further force and effect with respect to the Parties and shall not be used in any action or proceeding for any purpose. Any order of the Court, including without limitation the Orders, not entered in accordance with the terms of this Settlement Agreement shall be treated as null, vacated and of no effect, *nunc pro tunc*.

#### **IV. CONDITIONAL CERTIFICATION OF SETTLEMENT CLASS**

A. For settlement purposes only, the Parties shall jointly request that the Court make findings and enter an order granting conditional certification of the Settlement Class, preliminary approval of the Settlement, and appointing Plaintiff as Representative Plaintiff of the Settlement Class.

B. Red Bull does not consent to certification of the Settlement Class for any purpose other than to effectuate the settlement of the Action. If this Settlement Agreement is terminated pursuant to its terms, the order certifying the Settlement Class and all preliminary and/or Final findings regarding the Court's class certification order shall be vacated upon notice to the Court by Red Bull of the termination

of this Settlement Agreement, and the Action shall proceed as though the Settlement Class had never been certified and such findings had never been made, without prejudice to the ability of any Party thereafter to request or oppose class certification on any basis.

**V. ORDERS AND NOTICES**

A. **Notice Approval Order.** Promptly following the execution of this Settlement Agreement, the Parties shall jointly file an application before the Court to certify the class action for settlement purposes only, to appoint the Plaintiff as Representative Plaintiff of the class and to obtain the Notice Approval Order.

B. **Application for Settlement Approval Order.** Following the entry of the Notice Approval Order, and after the expiry of the time to serve and file an Opt Out Withdrawal Notice (as defined herein), the Parties shall jointly file an application before the Court to obtain the Settlement Approval Order, and request that the Court:

- (a) declare that this Settlement Agreement is fair, reasonable, and in the best interests of all Class Members;
- (b) approve this Settlement Agreement and order the Parties and the Settlement Class Members to comply with it;
- (c) order that the Final Settlement Notice be (1) posted on the same website upon which the Pre-Approval Settlement Notice was published; and (2) communicated by email from the Claims Administrator to Settlement Class Members who have previously provided their email address to the Claims Administrator pursuant to

the Pre-Approval Settlement Notice as provided for in this Settlement Agreement;  
and

(d) declare that the Action is settled out of Court.

C. **Form and Content of Orders and Notices.** It is a fundamental term of this Settlement Agreement that Plaintiff and Red Bull must agree on the form and content of both Orders and Notices and that the issued Orders and published Notices must be consistent with the terms of this Settlement Agreement. The form and content of the Orders and Notices are material terms of this Settlement Agreement, and if the Court fails to approve the form and content of the Orders and Notices substantially in the forms submitted to the Court, then Red Bull may unilaterally terminate this Settlement Agreement in its sole and absolute discretion by filing a Withdrawal Notice and serving the same on Plaintiff's Class Counsel.

#### **VI. RELEASES**

A. In accordance with the provisions of the Settlement Approval Order, for good and sufficient consideration, the receipt of which is hereby acknowledged, on the Effective Date, Plaintiff and each Settlement Class Member, by operation of the Settlement Approval Order shall have fully, finally, and forever released, relinquished and discharged each and all of the Released Claims against each and all of the Released Parties.

#### **VII. CLASS COUNSEL'S FEES AND DISBURSEMENTS**

A. By application presented for adjudication at the same time as the Application for the Settlement Approval Order or subsequent thereto, Class Counsel may seek approval of the Class Counsel Fees in the agreed upon amount of CAD \$250,000 (two hundred fifty thousand Canadian Dollars) plus sales taxes thereon for its extrajudicial fees, as well as up to but not more than CAD



\$15,000 (fifteen thousand Canadian dollars) plus applicable taxes for disbursements and judicial costs, or any lesser amount approved by the Court, payment of which shall be remitted to Class Counsel by the Claims Administrator within ten (10) business days after the date when the judgment approving the Class Counsel Fees has become Final, or such other date thereafter as mutually agreed upon by the Claims Administrator and Class Counsel, the whole as full and final compensation for Class Counsel's fees. Class Counsel Fees and disbursements ultimately awarded by the Court will be paid solely and exclusively from the Settlement Fund.

B. The Settlement Agreement is in no way conditional upon the approval of Class Counsel Fees. Any order or proceeding relating to the application for approval of Class Counsel Fees, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate, cancel or change the terms of this Agreement.

C. Red Bull will not contest the application for Class Counsel Fees.

#### **VIII. COSTS OF NOTICE AND ADMINISTRATION**

A. All costs of dissemination of any notice to the Settlement Class in accordance with the terms of this Settlement Agreement, together with all costs of administration of the Settlement Benefits Claims Process and any and all other expenses incurred by the Claims Administrator in the execution of its obligations under this Settlement Agreement shall be paid solely and exclusively from the Settlement Fund.

B. The Parties may monitor the fulfillment and payment of Settlement Benefits to Settlement Class Members and, pursuant to the terms and conditions included in this Settlement Agreement, may act on behalf of Settlement Class Members to assist in their receipt of the Settlement Benefits.

**IX. OTHER PROVISIONS**

A. **Further Assurances; Enforcement.** Upon execution of this Settlement Agreement, the Parties agree to act in good faith, cooperate and use all reasonable efforts to achieve approval of the Settlement in accordance with the terms of this Settlement Agreement, and to implement the Settlement and comply with, confirm the basis for and effectuate the terms of this Settlement Agreement. In particular, Plaintiff's Class Counsel shall cooperate with any efforts required to render this Settlement Agreement enforceable and executory anywhere and everywhere in Canada. Nothing in this Section shall preclude any Party from using this Settlement Agreement, the Orders, or any act performed or document executed pursuant thereto in a proceeding to consummate, monitor or enforce this Settlement Agreement or the terms of the Settlement or the Orders.

B. **Nature of Settlement Discussions.** Whether the Effective Date does or does not occur, this Settlement Agreement, all discussions, negotiations and papers related to it, and any proceedings in connection with the Settlement are not and shall not be construed as evidence of an admission or concession of wrongdoing or liability by Red Bull or any other Released Party as to any claim or allegation asserted in the Action. The Parties agree that the terms of this Settlement Agreement were not based solely on the amount of consideration to be paid, but were based on: (i) vigorous arm's-length negotiations between counsel for the Parties; (ii) the assessment of the signatories to this Settlement Agreement of the strengths and weaknesses of the Claims, as asserted in the Action, based on the various claims asserted or which could be asserted; and (iii) the expense and risks of ongoing litigation. Moreover, the amount of Damages that Plaintiff could prove is a matter of serious and genuine dispute, and the terms of the Settlement do not constitute a finding, admission or concession with respect to the measure of Damages that could be proved at trial. At all times during the course of this litigation, Red Bull has denied and continues to deny any liability or wrongdoing to Plaintiff and the Settlement Class,

and has denied and continues to deny that Plaintiff or anyone within the Settlement Class were damaged by any alleged wrongful conduct, or that, even if damaged, any compensable damages could be measured or recovered. The Parties agree that, to the fullest extent permitted by law, neither this Settlement Agreement nor the fact of the Settlement, nor any act performed nor document executed pursuant to or in furtherance of this Settlement Agreement or the Settlement, is or may be deemed to be or may be used as an admission of, or evidence of: (1) the validity of any claim of any Settlement Class Member, or (2) any wrongdoing, fault, omission, or liability of Red Bull in any proceeding in any court, administrative agency or other tribunal.

C. **Annexes.** All of the Annexes to this Settlement Agreement are material and integral parts hereof.

D. **Duly Authorized.** The undersigned signatories represent that they are fully authorized to execute and enter into the terms and conditions of this Settlement Agreement on behalf of the respective persons or entities for whom they have signed this Settlement Agreement.

E. **Entire Agreement.** This Settlement Agreement contains the entire agreement among the Parties hereto and supersedes any prior agreements or understandings between them. All terms of this Settlement Agreement are contractual and not mere recitals and shall be construed as if drafted by all Parties. All provisions of this Settlement Agreement are and shall be binding upon each of the Parties hereto, their agents, attorneys, employees, successors and assigns, and upon all other persons claiming any interest in the subject matter hereto through any of the Parties hereto, including Plaintiff and any Settlement Class Member (including without limitation Objectors).

F. **Amendments.** This Settlement Agreement may be amended or modified only by a written instrument signed by or on behalf of all affected Parties or their successors-in-interest.

G. **Counterparts.** This Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Counsel for the Parties (including without limitation Plaintiff's Class Counsel) to this Settlement Agreement shall exchange among themselves copies of the original signed counterparts, and jointly file a complete set of original signed counterparts with the Court.

H. **Jurisdiction.** The Parties submit to the jurisdiction of the Court, and agree that the Court shall have exclusive and continuing jurisdiction over the Parties for all purposes relating to the implementation, effectuation, interpretation, administration, monitoring and enforcement of this Settlement Agreement and all provisions thereof with respect to all Parties hereto and all beneficiaries hereof, including Plaintiff, Plaintiff's Class Counsel, Red Bull, Settlement Class Members and Released Parties. Any and all disputes, requests or petitions regarding or arising out of the enforcement, construction, administration or interpretation of this Settlement Agreement, any provisions of this Settlement Agreement or the Orders (or any other order of the Court), must be made, if at all, by motion to the Court, which shall apply the laws of the Province of Quebec.

I. **French Language.** A French version of this Settlement Agreement will be made available and both the French and the English versions will have legal standing; however, in the event of any discrepancy between the French and English versions of this Settlement Agreement, the English version shall predominate.

J. **Civil Code.** The Parties acknowledge that this Settlement Agreement constitutes a transaction within the meaning of article 2631 *Quebec Civil Code*, and the Settlement Class Members waive any recourse for annulment of this Settlement in case of mistake of fact or law, any errors of

calculation and any aggravation of any and all damages of any nature whatsoever in connection with any Released Claims.

**[REMAINDER OF PAGE IS INTENTIONALLY BLANK]**

DATED: July 18 2019

*Michael A*

Michael Attar  
Representative Plaintiff

LPC AVOCAT INC

*[Signature]*  
Me Joey Zukran, Plaintiff's Class Counsel

RED BULL CANADA LTD.

DocuSigned by:  
*Tatiana Kharchenko*  
Tatiana Kharchenko 07332FAFC734A3

DocuSigned by:  
*Keith Degrace*  
Keith Degrace 3204F9D9A4449F

RED BULL GMBH

*[Signature]*

DAVIES WARD PHILLIPS &  
VINEBERG LLP

*[Signature]*  
Me Nick Rodrigo  
Attorneys for Red Bull Canada Ltd. and  
Red Bull GMBH

GOWLINGS WLG

*[Signature]*  
Me Paule Hamelin  
Attorneys for Red Bull Canada Ltd. and  
Red Bull GMBH

**Annex 1**

**Form of Pre-Approval Settlement Notice**

**PRE-APPROVAL NOTICE**

**Red Bull Energy Drink Settlement Program in Canada**

**NOTICE OF COURT HEARING ON [INSERT DATE] CONCERNING THE  
APPROVAL OF A CLASS ACTION SETTLEMENT AGREEMENT IN THE CASE OF  
*ATTAR v. RED BULL*  
QUEBEC SUPERIOR COURT 500-06-000780-169**

**PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL  
RIGHTS**

**THE SETTLEMENT CLASS:**

A proposed settlement has been reached with respect to the class action commenced by Michael Attar (“Plaintiff”) against Red Bull Canada Ltd. and Red Bull GmbH (collectively referred to as “Red Bull”) before the Superior Court of Quebec for the judicial district of Montreal (the “Court”) under docket number 500-06-000780-169 (the “Action”) on behalf of the Settlement Class defined in the parties’ [DATE] Settlement Agreement as:

All legal and natural persons (excluding minors, defined as natural persons under 18 years of age as of [NOTICE APPROVAL DATE]) who were residents of Canada (including without limitation any of its provinces and territories) at any time between January 1, 2007 until • [NOTICE APPROVAL DATE] (the “Class Period”) and who purchased and/or used or consumed one or more Red Bull caffeinated energy drinks (“CEDs”) in Canada during the Class Period, excluding the Released Parties (which for informational purposes only is generally comprised of Red Bull and its affiliates, employees, contractors, and other related parties).

If you would like to exclude yourself from the class action, then you must timely and validly request exclusion (i.e. “opt out”) as described in this Notice.

**SUMMARY:**

Plaintiff alleges that Red Bull used or published certain labelling and advertising material that contained false or misleading information and failed to inform or disclose the alleged health risks associated with consuming Red Bull CEDs. Red Bull completely denies any and all wrongdoing or liability. Plaintiff and Red Bull negotiated and ultimately agreed to the proposed settlement after counsel for all parties extensively evaluated the facts and law relating to this case, and took into

account a variety of factors such as the burdens and expense of the lawsuit, and the risk and uncertainty of litigation.

Members of the Settlement Class who do not opt out may qualify for compensation under the proposed settlement.

Although Red Bull denies any wrongdoing or liability, to avoid the distraction of litigation, Red Bull has voluntarily amended and updated its marketing and labeling directed at Canadian consumers and agreed to settle the Action.

Plaintiff and Class Counsel believe that the settlement is in the best interest of the Settlement Class.

As part of the settlement process, the Class Action will be authorized by the Court for settlement purposes only.

**The settlement is ultimately subject to the Court's approval. Compensation will only be issued if the Court grants final approval to the Settlement and after the time for appeals has ended and any appeals are resolved. Please be patient.**

#### **WHAT THE SETTLEMENT PROVIDES:**

Red Bull has agreed to pay the total amount of \$850,000 (the "Settlement Fund") to settle the Action. If the proposed settlement is approved, the Settlement Fund will be used to: (a) compensate Settlement Class Members who timely submit valid Claim Forms; (b) pay all costs and expenses related to the settlement including without limitation the costs of the Claims Administrator (as defined in the Settlement Agreement) and Plaintiff's Class Counsel's fees (not to exceed \$250,000 plus applicable taxes, plus Class Counsel costs and disbursements not to exceed \$15,000 (subject to the Court's approval); and (c) pay the Plaintiff an honorarium of \$5,000 (subject to the Court's approval).

Only Settlement Class Members may qualify to receive compensation under the proposed settlement as described in this Notice.

#### **HOW TO QUALIFY FOR COMPENSATION:**

Settlement Class Members will be able to submit claims for compensation for a period of thirty (30) calendar days (the "Claims Period") until the Claim Form Due Date (to be determined by the Court). To participate, you must sign up to receive notice of the Claims Period by submitting your e-mail address on the Settlement Web Site <https://www.energydrinksettlement.ca> by no later than the 5:00 PM Eastern on • [EMAIL DUE DATE]. The Claims Administrator will send an e-mail to the e-mail address you provide alerting you that the Claims Period is open and advising you of the Claim Form Due Date.

To qualify for compensation, a Settlement Class Member will be required to: (a) within the Claims Period, submit a valid and complete Claim Form, attesting under penalty of perjury where and when he/she purchased and/or used or consumed such Red Bull CEDs in Canada between January 1, 2007 and • [NOTICE APPROVAL DATE]. Each Settlement Class Member may submit only one (1) Claim



Form. Each Settlement Class Member who timely submits a valid Claim Form will receive payment from the Claims Administrator appointed by the Court of an equal amount up to a maximum of \$10.00 per Settlement Class Member regardless of the number of Red Bull CEDs purchased and/or used or consumed by such Settlement Class Member. Under the terms of the settlement, certain conditions may lead to Settlement Class Members with valid claims receiving less than this amount. For example, the compensation available to Settlement Class Members will be reduced proportionately among all Settlement Class Members with valid claims if the total amount of eligible claims exceeds the Settlement Fund minus the costs and expenses of the settlement described in the Settlement Agreement, and summarized in (b) and (c) above.

In order to receive any compensation from the settlement, a Settlement Class Member must have a valid e-mail address and a bank account capable of receiving payments via Interac e-transfer, as e-transfer is the only method through which compensation will be sent. Compensation can only be collected for a period of thirty (30) days after the e-transfer is sent.

#### **SETTLEMENT APPROVAL:**

##### **Approval**

A motion to approve the settlement will be heard by the Court on **●, 2019 at ● pm in room ●.**

If the proposed settlement is approved, it will be binding on the Settlement Class except those who timely and properly opt out. Unless you opt out from the settlement, you will lose any right to sue in relation to the Released Claims, as described in the Settlement Agreement. Settlement Class Members who do not opt out will be subject to the releases in the Settlement Agreement regardless of whether or not they submit a Claim Form or ultimately receive any compensation from the settlement.

Class Members have the right to seek intervenor status in the class action, and no class member other than the representative plaintiff or an intervenor may be required to pay legal costs arising from the class action.

#### **OPT OUTS AND OBJECTIONS:**

##### **Opt Out**

If you do not wish to be part of the Class Action and bound by the Settlement Agreement, you may opt out of the Settlement Class by **5pm Eastern on ●, 2019** (the "Opt Out Period") by informing the clerk of the Court of your choice to opt out. Any attempt to opt out after this time will not be valid. If you opt out of the class action, you will not be eligible to receive any compensation from the settlement but you will retain the right to sue on an individual basis in relation to the Released Claims. Your signed request of exclusion must contain all of the following information:

1. The name and Court docket number of this case, which is: *Attar vs. Red Bull Canada Ltd. et al.* (500-06-000780-169);
2. Your name, address, phone number(s) and email address; and
3. Specific confirmation that you wish to exclude yourself (opt out) of the *Class Action against Red Bull* and the *Red Bull Settlement Agreement*.

The request for exclusion (opt out) must be sent by mail to the Court at the following address:

TO: Greffe de la Cour supérieure du Québec

PALAIS DE JUSTICE DE  
MONTRÉAL  
1 Notre-Dame Street East  
Room 2.120  
Montréal (Québec) H2Y 1B5

If you do not timely and properly opt out of the class action within the Opt Out Period, you will irrevocably be bound by all the terms and conditions of the Settlement Agreement in the event it is approved by the Court.

#### **Objections**

So long as you do not opt out, you may object to the settlement by explaining to the Court that you think the proposed settlement terms are unfair. Those who object to the settlement will remain part of the Settlement Class and will lose any right to sue in relation to the Released Claims.

If you wish to object to the proposed settlement, you must send a written notice of objection to the Claims Administrator at the following e-mail address • [CLAIMS ADMIN EMAIL] by no later than **5 pm Eastern on ●, 2019**. Any attempt to object after this time will not be valid. Your written objection should include: (a) your name, address, e-mail address and telephone number; (b) a brief statement of the reasons for your objection; and (c) whether you plan to attend the hearing in person or through a lawyer, and if by lawyer, the name, address, e-mail address and telephone number of the lawyer.

Settlement Class Members who do not oppose the proposed settlement need not appear at the settlement approval hearing or take any other action at this time.

#### **FURTHER INFORMATION:**

A complete copy of the Settlement Agreement, and detailed information on how to obtain or file a Claim Form are available on the following Settlement Web Site <https://www.energydrinksettlement.ca>.

The law firm representing the Plaintiff and the Settlement Class is the following:

Joey Zukran  
**LPC Avocat Inc.**  
5800 blvd. Cavendish, Suite 411  
Côte St-Luc, Québec, H4W 2T5  
Phone: 514.379.1572  
Fax: 514.221.4441  
E-mail: JZUKRAN@LPCLEX.COM

The law firm representing Red Bull is the following:

Nick Rodrigo  
**Davies Ward Phillips & Vineberg LLP**  
1501 McGill College Avenue  
Montréal, Québec, H3A 3N9  
Fax: 514.841.6499  
E-mail: [nrodrigo@dwpv.com](mailto:nrodrigo@dwpv.com)

The Claims Administrator is: [TO BE INSERTED ONCE APPOINTED BY THE COURT]

**RED BULL IS NOT RESPONSIBLE FOR THE ADMINISTRATION OF THE SETTLEMENT OR THE DISTRIBUTION OF THE SETTLEMENT FUND. PLEASE CONTACT CLASS COUNSEL OR THE CLAIMS ADMINISTRATOR – NOT THE COURT OR RED BULL'S COUNSEL – FOR FURTHER INFORMATION.**

If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

**This notice has been approved by the Court.**

There will be no further notice in the newspapers of this settlement.

**Annex 1A****Form of Short Form Pre-Approval Settlement Notice****ENERGY DRINK SETTLEMENT PROGRAM  
NOTICE OF SETTLEMENT APPROVAL HEARING**  
Superior Court of Quebec File #500-06-000780-169

A proposed Canada-wide settlement (the "Settlement") has been reached with respect to a class action lawsuit commenced against Red Bull Canada Ltd. and Red Bull GmbH (collectively, "Red Bull"). The lawsuit concerns Red Bull's advertising, labeling, and marketing materials regarding the benefits and safety of Red Bull caffeinated energy drinks ("CEDs"). Red Bull denies any wrongdoing or liability. **If you are an Settlement Class Member (defined below), you may qualify for compensation under the Settlement.** The Court will have a hearing on (DATE) to decide whether to approve the Settlement before any money is paid.

**Am I a Settlement Class Member?** You are a Settlement Class Member if you are 18 years of age or older as of [NOTICE APPROVAL DATE] and were a resident of Canada (including without limitation any of its provinces or territories) at any time between January 1, 2007 to [NOTICE APPROVAL DATE] (the "Class Period") and you purchased and/or used or consumed one or more Red Bull CEDs in Canada during the Class Period, unless you exercised your right to opt out of the class action or are among the Released Parties (which for informational purposes only is generally comprised of Red Bull, and its affiliates, employees, contractors, and other related parties).

**What Does the Settlement Provide?** If the Settlement is approved, Red Bull agrees to pay the total amount of \$850,000 (the "Settlement Fund") to be used to (a) compensate Settlement Class Members who submit timely and valid Claim Forms available at [www.energydrinksettlement.ca](http://www.energydrinksettlement.ca), (b) pay all costs and expenses related to the Settlement including without limitation the costs of publishing notices, the Claims Administrator and Class Counsel's fees (the latter not to exceed \$250,000 plus applicable taxes, subject to the Court's approval), plus a maximum of \$15,000 in Class Counsel disbursements, and (c) pay the Plaintiff an honorarium (not to exceed \$5,000, subject to the Court's approval). Settlement Class Members who submit a valid and timely Claim Form may receive compensation (in the form of an Interac e-Transfer) of up to \$10 per Settlement Class Member. Under the terms of the settlement, certain conditions may lead to Settlement Class Members with valid claims receiving less than this amount. For example, the compensation available will be reduced proportionately among all Settlement Class Members with valid claims if the total amount of eligible claims exceeds the Settlement Fund minus the costs and expenses of the settlement. In order to receive compensation from the Settlement, Settlement Class Members must have a valid e-mail address and a bank account capable of receiving payments via Interac e-Transfer. Although Red Bull denies any wrongdoing or liability, to avoid the distraction of litigation, Red Bull has voluntarily amended and updated its marketing and labeling directed at Canadian consumers and agreed to settle the lawsuit.

**What Are My Options?** If you are a Settlement Class Member and you do nothing, you will remain in the Settlement Class. You may make a claim for compensation if the Settlement is approved and you will lose any right to sue in relation to the released claims described in the Settlement Agreement.

**How Do I Claim Compensation?** If you are a Settlement Class Member, to ask for compensation, you must:

(1) provide your e-mail address at [www.energydrinksettlement.ca](http://www.energydrinksettlement.ca) by 5 pm Eastern on [EMAIL DUE DATE] and

(2) complete and submit an online Claim Form by the Claim Form Due Date (to be determined) attesting to its contents under penalty of perjury.

If you do not wish to participate in the Settlement, you may opt out by 5 pm Eastern on [DATE], or you may stay in the Settlement Class and object to the Settlement by 5 pm Eastern on [DATE], in accordance with the procedures described in the Pre-Approval Notice.

**Who Should I Contact for Information?** For more information about the Settlement, visit [www.energydrinksettlement.ca](http://www.energydrinksettlement.ca) or contact the Claims Administrator (CLAIMS ADMIN PHONE #) or Class Counsel: Mtre Joey Zukran, LPC Avocat Inc. (514-379-1572, JZUKRAN@LPCLEX.COM).

**This is only a summary notice. You may view the complete Pre-Approval Notice and Settlement Agreement at [www.energydrinksettlement.ca](http://www.energydrinksettlement.ca).**

**Annex 2**

**Form of Final Settlement Notice**

**FINAL SETTLEMENT APPROVAL NOTICE**

**Energy Drink Settlement Program in Canada  
Superior Court of Quebec File #500-06-000780-169**

**NOTICE OF THE APPROVAL OF A CLASS ACTION SETTLEMENT AGREEMENT**

**PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS**

**THE SETTLEMENT CLASS:**

A settlement has been reached with respect to the class action commenced against Red Bull Canada Ltd. and Red Bull GmbH (collectively referred to as "Red Bull") by a consumer ("Plaintiff") before the Superior Court of Quebec under docket number 500-06-000780-169 on behalf of the Settlement Class defined in the parties' [DATE] Settlement Agreement as:

All legal and natural persons (excluding minors, defined as persons under 18 years of age as of [NOTICE APPROVAL DATE]) who were residents of Canada (including without limitation any of its provinces and territories) at any time between January 1, 2007 until • [NOTICE APPROVAL DATE] (the "Class Period") and who purchased and/or used or consumed one or more Red Bull caffeinated energy drinks ("CEDs") in Canada during the Class Period, excluding the Released Parties (which for informational purposes only is generally comprised of Red Bull and its affiliates, employees, contractors, and other related parties).

**SUMMARY:**

Plaintiff alleged that Red Bull used or published certain labelling and advertising material that contained false or misleading information and failed to inform or disclose the alleged health risks associated with consuming Red Bull CEDs. Red Bull completely denies any and all wrongdoing or liability. Plaintiff and Red Bull negotiated and ultimately agreed to the settlement after counsel for all parties extensively evaluated the facts and law relating to this case, and took into account a variety of factors such as the burdens and expense of the lawsuit, and the risk and uncertainty of litigation.

Members of the Settlement Class, excluding those who opt out, may qualify for compensation under the settlement.

**HOW TO QUALIFY FOR COMPENSATION:**

To qualify for compensation, a Settlement Class Member is required to: (a) sign and solemnly declare under penalty of perjury that he/she purchased and/or used or consumed Red Bull CEDs in Canada between January 1, 2007 and [NOTICE APPROVAL DATE]; and (b) timely submit a valid and complete Claim Form, attesting under penalty of perjury where and approximately when he/she purchased and/or used or consumed such Red Bull CEDs in Canada between January 1, 2007 and [NOTICE APPROVAL DATE]. Each Settlement Class Member may submit only one (1) Claim Form. Each Settlement Class Member who timely submits a valid Claim Form will receive an equal amount up to a maximum of \$10.00 per Settlement Class Member regardless of the number of Red Bull CEDs purchased and/or used or consumed by such Settlement Class Member. Under the terms of the settlement, certain conditions may lead to Settlement Class Members with valid claims receiving less than this amount. For example, the compensation available to Settlement Class Members will be reduced proportionately among all Settlement Class Members with valid claims if the total amount of eligible claims exceeds the Settlement Fund minus the costs and expenses of the settlement described in the Settlement Agreement, and summarized in (b) and (c) above.

In order to receive any compensation from the settlement, a Settlement Class Member must have a valid e-mail address and a bank account capable of receiving payments via Interac e-transfer, as e-transfer is the only method through which compensation will be sent. Compensation can only be collected for a period of thirty (30) days after the e-transfer is sent.

#### **IMPORTANT DATES – WHEN TO MAKE A CLAIM:**

To seek compensation from the settlement, a Settlement Class Member must complete and submit a Claim Form online at <https://www.energydrinksettlement.ca> no later than 5:00 PM Eastern on [CLAIM FORM DUE DATE].

#### **FURTHER INFORMATION:**

A complete copy of the Settlement Agreement, and detailed information on how to obtain or file a Claim Form are available on the following Settlement Web Site <https://www.energydrinksettlement.ca>.

The law firm representing the Plaintiff and the Settlement Class is the following:

Joey Zukran  
**LPC Avocat Inc.**  
5800 blvd. Cavendish, Suite 411  
Côte St-Luc, Québec, H4W 2T5  
Phone: 514.379.1572  
Fax: 514.221.4441  
E-mail: JZUKRAN@LPCLEX.COM

The law firm representing Red Bull is the following:

Nick Rodrigo  
**Davies Ward Phillips & Vineberg LLP**

1501 McGill College Avenue  
Montréal, Québec, H3A 3N9  
Fax: 514.841.6499  
E-mail: [nrodrigo@dwpv.com](mailto:nrodrigo@dwpv.com)

The Claims Administrator is: [TO BE INSERTED ONCE APPOINTED BY THE COURT]

**RED BULL IS NOT RESPONSIBLE FOR THE ADMINISTRATION OF THE SETTLEMENT OR THE DISTRIBUTION OF THE SETTLEMENT FUND. PLEASE CONTACT CLASS COUNSEL OR THE CLAIMS ADMINISTRATOR – NOT THE COURT OR RED BULL'S COUNSEL – FOR FURTHER INFORMATION.**

If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

**This notice has been approved by the Superior Court of Quebec.**



### Annex 3

#### Claim Form

#### Energy Drink Settlement Program in Canada

#### INSTRUCTIONS – TERMS AND CONDITIONS

**PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY TO DETERMINE IF YOU QUALIFY UNDER THIS SETTLEMENT PROGRAM.**

#### WHO IS ELIGIBLE TO MAKE A CLAIM

1. Settlement Class Members, defined as: all legal and natural persons (excluding minors, defined as persons under 18 years of age as of [NOTICE APPROVAL DATE]) who were residents of Canada (including without limitation any of its provinces and territories) at any time between January 1, 2007 and • [NOTICE APPROVAL DATE] (the “Class Period”) and who purchased, and/or used or consumed one or more Red Bull caffeinated energy drinks (“CEDs”) in Canada during the Class Period, except for those specifically excluded (listed below).
2. Specifically excluded from the definition of Settlement Class Members are:
  - a) all persons who timely and validly request exclusion (opt out) from the class action settlement, and
  - b) Released Parties (as defined in the Settlement Agreement)

#### HOW TO MAKE A CLAIM

1. To qualify to receive compensation, you must:
  - a) meet the definition of Settlement Class Member as set forth above; AND
  - b) have submitted a valid e-mail address on the website [www.energydrinksettlement.ca](http://www.energydrinksettlement.ca) by 5:00 PM Eastern on • [EMAIL DUE DATE]; AND
  - c) fully complete and submit this Claim Form on the website [www.energydrinksettlement.ca](http://www.energydrinksettlement.ca), along with any required documentation, in compliance with the instructions below.
2. The Claim Form must be signed by you (either electronically or in writing) under penalty of perjury affirming that you are a Settlement Class Member and that the information provided therein is true and accurate.
3. The Claim Form must be submitted as described above no later than **5:00 PM Eastern on • [CLAIM FORM DUE DATE]**. If you are a Settlement Class Member and you do not timely

submit a valid Claim Form in accordance with these instructions, you will not be eligible to receive compensation and you will remain subject to the releases in the Settlement Agreement.

4. Each Settlement Class Member may submit only one (1) Claim Form for all purchases of Red Bull CEDs between January 1, 2007 and • [DATE OF NOTICE APPROVAL ORDER].
5. The maximum compensation available to Settlement Class Members under the settlement is \$10 regardless of the amount of CEDs purchased and/or used or consumed during the Class Period. Under the terms of the settlement, certain conditions may lead to Settlement Class Members with valid claims receiving less than this amount. For example, the compensation available will be reduced proportionately among all Settlement Class Members with valid claims if the total amount of eligible claims exceeds the Settlement Fund minus the costs and expenses of the settlement.
6. Duplicate, invalid, illegible, or incomplete Claim Forms will not be honoured.
7. Keep copies for your records.
8. Lost, late, or misdirected Claim Forms are not the responsibility of Red Bull or the Claims Administrator and will be invalidated.
9. Compensation can only be sent to a valid e-mail address via Interac e-transfer. You must have a bank account capable of receiving an Interac e-transfer to collect any compensation. Compensation can only be collected for a period of thirty (30) days after the Interac e-Transfer is sent to the e-mail address you provide.

**RED BULL IS NOT RESPONSIBLE FOR THE ADMINISTRATION OF THE SETTLEMENT OR THE DISTRIBUTION OF THE SETTLEMENT FUND. PLEASE CONTACT CLASS COUNSEL OR THE CLAIMS ADMINISTRATOR – NOT THE COURT OR RED BULL'S COUNSEL – FOR FURTHER INFORMATION.**

**CLAIM FORM****ENERGY DRINK SETTLEMENT PROGRAM IN CANADA**

To seek compensation in the above-described Settlement Program, please provide all of the following information, failing which your claim may be rejected. Any compensation that is provided in response to your claim will be sent via Interac e-Transfer to the e-mail address you provide. Compensation will only be distributed after the Court grants final approval of the settlement, pending any appeals. Please be patient.

Name:	
Address:	
City:	
Province:	
Postal Code:	
Phone number:	
E-mail:	
Location where RED BULL CEDs were purchased and/or used or consumed:	
Approx. Date of RED BULL purchase(s) and/or use or consumption (MM/YYYY):	

**Acknowledgement and Certification:**

By signing and dating this form below, I acknowledge that I have read the terms and conditions herein and am qualified to seek compensation under this settlement. I further attest that I have not submitted, and will not in the future submit, any other Claim Form seeking compensation from this settlement.

I am presently 18 years of age or older and was a Canadian resident during the Class Period and I solemnly declare under penalty of perjury that I have purchased and/or used or consumed one or more Red Bull CEDs in Canada between January 1, 2007 and [NOTICE APPROVAL DATE] at the location(s) cited above. I further state under penalty of perjury that the information provided above is true, complete and accurate.

Date:

Type Full Name in lieu of Signature:

**If you have any questions while completing the Claim Form please contact the Claims Administrator at:**

[TO BE INSERTED ONCE APPOINTED BY THE COURT]

**RED BULL IS NOT RESPONSIBLE FOR THE ADMINISTRATION OF THE SETTLEMENT OR THE DISTRIBUTION OF THE SETTLEMENT FUND. PLEASE CONTACT CLASS COUNSEL OR THE CLAIMS ADMINISTRATOR – NOT THE COURT OR RED BULL’S COUNSEL – FOR FURTHER INFORMATION.**

**Annex 4**

**Photograph**

